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October 12, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte contact In the Matter of Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Federal-State Joint Board on Universal Service Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, and 95-116.

Dear Secretary Salas:

In accordance with Section 1.1206(b)(2) of the Commission's Rules, 47 C.F.R. § 1.1206(b)(2), notice is hereby given of an *ex parte* meeting regarding the above-captioned proceedings. On October 12, 2001, Jim Blaszak and Steve Rosen, of Levine, Blaszak, Block & Boothby, LLP, on behalf of the Ad Hoc Telecommunications Users Committee ("Ad Hoc"), met with Anita Cheng, Katherine Schroder, Gregory Guice, James Lande, Paul Garnett and Geoffrey Waldau of the Common Carrier Bureau to discuss universal service issues identified in the attached document.

An electronic copy of this *ex parte* letter is being filed via the Federal Communications Commission's Electronic Comment Filing System. If you have any questions or concerns please do not hesitate to contact my legal assistant, Tony Mangino, at (202) 857-2558.

Respectfully submitted,

Stephen J. Rosen

Cc w/o attachment :

Anita Cheng CCB/APD
Katherine Schroder CCB/APD
Gregory Guice CCB/APD
James Lande CCB/IAD
Geoffrey Waldau CCB/APD
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Attachment

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REQUIRING CARRIERS TO COLLECT UNIVERSAL SERVICE CONTRIBUTIONS ON A PER LINE BASIS FOR SWITCHED ACCESS, AND ON A REVENUE BASIS FOR SPECIAL ACCESS, IS MORE ECONOMICALLY RATIONAL, MORE SUSTAINABLE, AND MORE EQUITABLE THAN THE CURRENT REVENUE-BASED SYSTEM

- Continuing to use the revenue-based approach for all services will result in IXCs collecting increasingly large percentages of billed revenues from their end-users because: (1) the fund is growing (the *Fiscal Year 2002 Budget of the United States Government: Analytical Perspectives* projects that in FY 2006 USF receipts will be over $7.9 billion, an almost 74% increase over the FY 2000 receipts of $4.547 billion, (2) long-distance revenues are declining; and (3) end-users are beginning to utilize non-contributory services such as voice over IP. Such double digit contribution factors will become politically indefensible and will lead to a death spiral for the USF as increased contribution factors lead to increased bypass.

- Universal service contributions for switched access to the PSTN should be assessed based on the number of lines connected to the public switched network for landline carriers and the number of telephone numbers associated with service enabled handsets for wireless carriers.

  - Flat fees, unlike revenue-based methods, recover non-traffic sensitive costs on a non-traffic sensitive basis, avoid incentives for uneconomic bypass, avoid "deadweight loss" for the economy, do not pre-suppose a correlation between long distance usage and wealth, and will be easier to administer.

  - Per line charges are also more sustainable because they are applied regardless of the service for which a line is used.

  - Given the legality of federally-mandated per line charges such as SLCs, per line universal service charges do not exceed the Commission's statutory jurisdiction over interstate communications. Further, the ILECs have already implemented a number of flat, monthly regulatory fees assessed on their end-users.

  - Should the Commission determine that this method violates Section 254(d)'s requirement that every carrier make equitable and non-discriminatory contributions to the universal service fund, per line charges should be used to assess universal service contributions on all carriers that provide a point of interconnection to the public switched network (*i.e.,* LECs, and wireless carriers), and on pre-subscribed long distance carriers. Carriers that do not provide a point of interconnection and are not presubscribed IXCs—including dial-around providers—should be required to contribute on the basis of their revenues.

- Contributions for private lines (special access) should be revenue-based and collected as follows: The current portion of USF funding derived from special access lines should be calculated and, in the future, this portion should be collected from special access customers based on a percentage of revenues.

  - This hybrid approach captures private line revenues while avoiding the difficulties associated with calculating "equivalency ratios" for special access lines.

- While Ad Hoc supports the IXCs to the extent they endorse a per line contribution methodology, the Commission should not adopt the "residual approach" advocated by AT&T and WorldCom, under which residential, wireless, and single line business subscribers would pay artificially low flat fees, and multi-line business subscribers would be responsible for funding the residuum of the nation's universal service requirements, including any future increases in the size and scope of the fund.

    - There is no evidence that residential and single line business customers cannot afford to contribute the same amount to the universal service fund on a per-line basis as multi-line business customers.

    - If an equitable apportionment of a flat universal service fee on residential customers does raise *bona fide* affordability concerns, the solution is to provide narrowly targeted relief to low-income users. As pointed out by SBC in its InterCarrier Compensation Comments, only households that cannot afford telephone service should be eligible for universal service subsidies, **and**, in calculating "affordability," household expenditures on cable TV and other types of entertainment should be taken into account.

- The Commission should not attempt to assess universal service contributions on providers of Internet-based services because the bundling and pricing of such services make such contributions administratively burdensome to collect and unsustainable as a long term means of funding universal service.

- Carriers must be permitted to impose a line item on their customer bills in the amount of the Commission-prescribed universal service charge and clearly denominated as such.

    - Any rules prohibiting such explicit surcharges and line items would inevitably result in carriers burying their universal service contributions in per minute rates and might raise First Amendment concerns.

    - Hidden subsidies are inconsistent with Section 254(e)'s mandate that all universal service support be "explicit." In addition, implicit subsidies artificially inflate the price of interstate and international services, thereby encouraging inefficient "bypass" and depressing demand for these services. Taxing long distance services, for which demand is elastic, also defies the teachings of optimal taxation theory. Such implicit subsidies further hide the magnitude and nature of the universal service program from the American people.

- Consistent with its Truth-in-Billing rules and the *Universal Service Order*, the Commission should not permit carriers to denominate any amount in excess of the Commission-prescribed contribution factor as a "universal service charge" on customer bills.